use a 90-percent statistical confidence interval.

(s) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–124 to require that an operator:

(1) Repair or compensate for subsidence-related material damage to structures and facilities and

(2) Correct, by restoring the land to the extent technologically and economically feasible, any material damage resulting from subsidence caused to surface lands,

(3) Require an operator to either repair or compensate the owner in full regardless of the extent of operator liability under State law for any subsidence-related damage occurring after October 24, 1992, to occupied residential dwellings, structures related thereto, and noncommercial buildings, and

(4) Remove the inconsistency with proposed CSMC Rule 80–1–9–39(c) with regard to limiting to the extent required under State law, an operator's obligation to remedy subsidence-related material damage to structures and facilities.

(t) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–150(b)(9) to reference subparagraph (d) of CSMC Rule 80–1–20–150 instead of subparagraph (c).

(u) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rules 80–1–20–150(e)(1), or to its definition of "intermittent stream" at CSMC Rule 80–1–1–5, or otherwise amend its program to provide protection no less effective than the Federal provisions at 30 CFR 816.150(d)(1) and 817.150(d)(1) for streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

(v) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rules 80–1–20–151(b)(2) and (c)(6), or to its definition of "intermittent stream" at CSMC Rule 80–1–1–5, or otherwise amend its program to provide protection no less effective than the Federal provisions at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6) for streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

[FR Doc. 93–30652 Filed 12–16–93; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AE49

Reservists Education: Procedural Due Process and the Montgomery GI Bill—Selected Reserve; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulations (RIN 2900–AE49) which were published on Tuesday, October 5, 1993 (58 FR 51781). The regulations provided procedural due process to reservists receiving educational assistance under the Montgomery GI Bill—Selected Reserve.

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202–233–2092.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of this correction provided procedural due process for reservists receiving educational assistance under the Montgomery GI Bill—Selected Reserve. This was done by liberalizing the time limits for filing a claim for this assistance and by liberalizing the time limits for submitting a description of the mitigating circumstances surrounding a withdrawal or receipt of a nonpunitive grade.

Need for Correction

Two final regulation documents, 2900–AE49 and 2900–AF78 (58 FR 51783), were both published in the **Federal Register** of October 5, 1993. Both documents contained an amendment to § 21.7639(b)(1)(ii). Since the documents indicated that the amendment contained in 2900–AE49 had a later effective date than that contained in 2900–AF78, the amendment in 2900–AE49 would remain in effect from October 5, 1993. However, that amendment when taken with the amendment to § 21.7639(b)(1)(i) does not make sense. This has caused confusion among readers of the regulations. Consequently, the language of § 21.7639(b)(1)(ii) should include the language for that paragraph contained in 2900–AF79; this correction does that.

Correction of Publication

Accordingly, the publication on October 5, 1993, of the final regulations which were the subject of FR Doc. 93–24375 is corrected as follows.

Paragraph 1. On page 51781 in the third column, in § 21.7639, paragraph (b)(1)(ii) is corrected to read as follows.

§ 21.7639 Conditions which result in reduced rates.

* * * * *

(ii) Both of the following exist.

(A) There are mitigating circumstances, and

(B) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

* * * * *

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3471, 3680(a), 5101, 5113; Pub. L. 102–127) (Aug. 1, 1990))

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Dated: December 10, 1993.

Marjorie M. Leandri,

Chief, Records, Reports, and Regulations Division.

[FR Doc. 93–30812 Filed 12–16–93; 8:45 am]
BILLING CODE 8320–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–9–1–6153; RI–5–1–6152; A–1–FRL–4807–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut and Rhode Island; Stage II Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving Section 22a–174–30 of the Connecticut Regulations for the Abatement of Air Pollution entitled "Dispensing of Gasoline/Stage II Vapor Recovery" as a revision to the Connecticut State

Implementation Plan (SIP) for ozone. In addition, EPA is approving amendments to Rhode Island's Regulation No. 11 entitled "Petroleum Liquids Marketing and Storage" as a revision to the Rhode Island SIP. On January 12, 1993, Connecticut and Rhode Island submitted these regulations to EPA in response to the Clean Air Act, as amended in 1990, which requires all ozone nonattainment areas classified as moderate or above to adopt regulations which require owners and operators of gasoline dispensing facilities to install and operate Stage II vapor recovery equipment.

EFFECTIVE DATE: This rule will become effective on January 18, 1994.

ADDRESSES: Copies of the States' submittals and EPA's technical support documents are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA. In addition, Connecticut's submittal is available at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630 and Rhode Island's submittal is available at Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565–3166.

SUPPLEMENTARY INFORMATION: On September 10, 1993 (58 FR 47707), EPA published a Notice of Proposed Rulemaking (NPR) for the States of Connecticut and Rhode Island. The NPR proposed approval of the Stage II vapor recovery regulations adopted by these states. No public comments were received on the NPR.

Under section 182(b)(3) of the amended Act, moderate and above ozone nonattainment areas were required to submit Stage II vapor recovery rules by November 15, 1992. In addition, section 184(b)(2) of the amended Act requires all areas that are located in an ozone transport region (OTR) to adopt Stage II regulations in accordance with section 182(b)(3) or measures that EPA has identified as capable of achieving equivalent reductions to section 182(b)(3) Stage II controls. These measures must be submitted within 1 year of EPA's completion of its Stage II comparability study.

The entire State of Connecticut is designated nonattainment for ozone and is classified as serious, except for the south western portion of the State which is classified as severe. The entire State of Rhode Island is also designated nonattainment for ozone and is classified as serious. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.307 and 81.340. In addition, both Connecticut and Rhode Island are located in the northeast ozone transport region. See CAA section 184(a). Thus, these States are required to adopt Stage II vapor recovery rules in accordance with sections 182(b)(3) and 184(b)(2) of the amended Act.

Under section 182(b)(3), moderate and above ozone nonattainment areas are required to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Section 182 (b)(3)(A) of the Act specifies that Stage II controls must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month.

Also under section 182(b)(3), EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement.[1] In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what EPA believes a State submittal needs to include to meet that requirement.

Connecticut's Stage II Regulations

On January 12, 1993, the Connecticut Department of Environmental Protection submitted to EPA Section 22a–174–30 entitled "Dispensing of Gasoline/Stage II Vapor Recovery." This regulation prohibits the transfer of gasoline into a motor vehicle fuel tank at a dispensing facility unless a properly operating Stage II vapor recovery system is used for such transfer. This prohibition applies as follows: (1) After November 30, 1992, to any facility which begins actual construction of a stationary storage tank after November 30, 1992 and which has a throughput of 10,000 gallons or more during any calendar month, (2) after May 15, 1993, to any facility for which construction commenced between November 15, 1990 and November 30, 1992 and which has a throughput of 10,000 gallons or more during any one month, (3) after November 15, 1993, to any facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 10,000 gallons or more calculated based on the highest throughput in a calendar month during the two year period between November 30, 1990 and November 30, 1992, and (4) after November 15, 1994, to any facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 10,000 gallons or more during any calendar month after November 30, 1992. Connecticut's regulation does not contain a separate applicability cut-off or compliance schedule for ISBMs.

The EPA has reviewed Connecticut's submittal against the statutory requirements and for consistency with EPA guidance. By this action, EPA is approving Connecticut's submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The rationale for EPA's proposed approval is explained in the NPR (58 FR 47707) and will not be restated here. Connecticut's regulation and EPA's evaluation are detailed in a memorandum, dated April 15, 1993, entitled "Technical Support Document—Connecticut—Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

Rhode Island's Stage II Regulations

On January 12, 1993, the Rhode Island Department of Environmental Management (DEM) submitted to EPA Regulation No. 11, entitled "Petroleum Liquids Marketing and Storage," which had been recently amended to include new Stage II vapor recovery requirements in section 10 of the rule. Section 10 requires that all gasoline dispensing facilities constructed or substantially modified after November 15, 1992, as well as all other facilities which have or have had a monthly throughput of greater than 10,000 gallons in any one month after November 1991, install and operate Stage II vapor recovery controls. Rhode Island's regulation does not contain a separate Stage II applicability cut-off or compliance schedule for ISBMs.

The EPA has reviewed Rhode Island's submittal against the statutory requirements and for consistency with EPA guidance. By today's action, EPA is proposing to approve Rhode Island's

[1] These two documents are entitled "Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA–450/3–91–022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs."

submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The rationale for EPA's proposed approval is explained in the NPR (58 FR 47707) and will not be restated here. Rhode Island's regulation and EPA's evaluation are detailed in a memorandum, dated April 7, 1993, entitled "Technical Support Document—Rhode Island—Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

Final Action

Because EPA believes that the State of Connecticut has adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is approving Section 22a–174–30 of the Connecticut Regulations for the Abatement of Air Pollution, entitled "Dispensing of Gasoline/Stage II Vapor Recovery," as meeting the requirements of sections 182(b)(3) and 184(b)(2). In addition, because EPA believes that the State of Rhode Island has also adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is approving amendments to Rhode Island's Regulation No. 11, entitled "Petroleum Liquids Marketing and Storage," as meeting the requirements of sections 182(b)(3) and 184(b)(2).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As noted elsewhere in this action, EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 2 to Table 3 under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214) and revisions to these procedures issued on October 4, 1993 in an EPA memorandum entitled "Changes to State Implementation Plan (SIP) Tables."

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the States of Connecticut and Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 5, 1993.

Paul Keough,

Acting Regional Administrator, Region I

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(62) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(62) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 12, 1993.

(i) Incorporation by reference

(A) Letter from the Connecticut Department of Environmental Protection, dated January 12, 1993, submitting a revision to the Connecticut State Implementation Plan.

(B) Section 22a–174–30 of the Connecticut Regulations for the Abatement of Air Pollution, entitled "Dispensing of Gasoline/Stage II Vapor Recovery," dated November 1992.

(C) Letter from the Connecticut Secretary of State's office indicating that the regulation entitled "Dispensing of Gasoline/Stage II Vapor Recovery" became effective on November 24, 1992.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

(B) Connecticut Department of Environmental Protection document entitled "Narrative of SIP Revision: Stage II Vapor Recovery," dated January 1993.

Subpart OO—Rhode Island

3. Section 52.2070 is amended by adding paragraph (c)(39) to read as follows:

§ 52.2070 Identification of plan.

* * * * * *

(c) * * *

(39) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on January 12, 1993.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management, dated January 12, 1993.

submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island Department of Environmental Protection, Division of Air and Hazardous Materials, Air Pollution Control Regulation No. 11, entitled "Petroleum Liquids Marketing Storage," submitted to the Secretary of State on January 11, 1993.

(C) Letter from the Rhode Island Department of Environmental Protection, dated February 10, 1993, stating that Regulation No. 11 became effective on January 31, 1993, 20 days after being filed with the Secretary of State.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

4. In § 52.2081, Table 52.2081 is amended by adding a new entry to the end of state citation "No. 11" to read as follows:

§ 52.2081 EPA-Approved Rhode Island Regulations.

* * * * *

TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
*	*	*	*	*	*	*
No. 11	Petroleum Liquids Marketing and Storage..	1/11/93	December 17, 1993.	[Insert *FR* citation from published date].	(c)(39)	Regulation revised to add new Stage II vapor recovery requirements.
*	*	*	*	*	*	*

[FR Doc. 93–30776 Filed 12–16–93; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[OH51–1–6078; FRL–4811–5]

Approval and Promulgation of Implementation Plan for Carbon Monoxide; Vehicle Inspection and Maintenance Program; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving a State Implementation Plan (SIP) revision submitted by the State of Ohio as it applies to the tailpipe test vehicle inspection and maintenance (I/M) of motor vehicles in Cuyahoga County, Ohio. This revision will reduce the emissions of carbon monoxide (CO) and volatile organic compounds by requiring motor vehicles in Cuyahoga County to be tested, and maintained if necessary, on an annual basis. This I/M program is required in order for Cuyahoga County to maintain the National Ambient Air Quality Standards for CO and ozone. This is a condition for the State's request for redesignation to attainment for CO of the current Cleveland CO nonattainment area. The approval of this SIP revision satisfies this requirement and allows the redesignation process to move forward.

EFFECTIVE DATE: This final rulemaking becomes effective on January 18, 1994.

ADDRESSES: Copies of the CO I/M SIP revision request and other materials related to this final rule are available for inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, (AE–17J), Chicago, Illinois 60604.

A copy of this revision to the Ohio I/M CO SIP is available for inspection at: U.S. Environmental Protection Agency, Jerry Kurtzweg (W947A), 401 M Street, SW., 6102, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Air Enforcement Branch, (AE–17J), U.S. Environmental Protection Agency, 77 West Jackson Blvd, Chicago, Illinois 60604, (312) 886–6084.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

This **Federal Register** notice describes USEPA's decision to approve a revision to the I/M portion of the Ohio CO SIP, which is designed to reduce the emissions of CO from automobiles in Cuyahoga County. This revision was proposed in the **Federal Register** on September 24, 1993. The USEPA sought comments on the proposal, and in particular asked for comment on three issues which USEPA believed were weaknesses in the program. These issues included: evaluation of the effectiveness of the registration denial process, operation of non-state registered and plated vehicles in the area, and permanent exemption from inspection or testing of diesel powered vehicles.

II. Public Comment/USEPA Response

There were no comments of any kind received from the public or any interested party on any part of the I/M proposal. Therefore, the USEPA is taking action to approve the Ohio I/M SIP for Cuyahoga County, Ohio. This action is being taken as part of the process for Ohio meeting the requirements for a request for redesignation to attainment for CO of Cuyahoga County. This I/M program, implemented in January 1991, meets the requirements found in the program rules published in the **Federal Register**, January 22, 1981 (46 FR 7182).

III. Rulemaking Action

The USEPA is approving the I/M portion of this requested revision to the Ohio Carbon Monoxide State Implementation Plan to control CO emissions from automobiles in Cuyahoga County. The USEPA finds that this I/M program meets all the requirements of the USEPA rules published in January 22, 1981 (46 FR 7182), for SIPs in areas that needed an extension to December 1987, to attain the CO and ozone standards.

Originally classified as a Table 1 action, this action is now classified and processed as a Table 3 action, because of the lack of comments on the proposal. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 29, 1993.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(95) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(95) On October 16, 1992, the State of Ohio submitted the tailpipe test inspection and maintenance program revisions to its carbon monoxide implementation plan for Cuyahoga County.

(i) Incorporation by reference.

(A) Ohio Administrative Code: amended rules, 3745–26–01 through 3745–26–09, effective May 15, 1990, and new rules, 3745–26–10 and 3745–26–11, effective May 15, 1990.

(ii) Additional materials–remainder of the State submittal.

(A) Letter from the Director, Ohio Environmental Protection Agency, dated November 18, 1992, and additional materials.

[FR Doc. 93–30775 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[OR12–2–6161; FRL–4810–1]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving the revisions to the State of Oregon Implementation Plans which were submitted by the State of Oregon Department of Environmental Quality (ODEQ) for the purpose of bringing about the attainment of the National ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plan was submitted by ODEQ on November 15, 1991, to satisfy certain Federal Clean Air Act requirements for an approvable moderate PM_{10} nonattainment area SIP for Grants Pass, Oregon. This action to approve this plan has the effect of making requirements adopted by the ODEQ federally enforceable by EPA.

EFFECTIVE DATE: February 15, 1994.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at the following: Jerry Kurtzweg ANR–443, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Environmental Protection Agency, Air Programs Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101 and State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Air Programs Development Section (AT–082), US Environmental Protection Agency, Region 10, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION:

I. Background

The Grants Pass, Oregon, area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.[2] EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those state submittals containing moderate PM_{10} nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

On March 10, 1993, EPA announced its proposed approval of the moderate nonattainment area PM_{10} SIP for Grants Pass, Oregon (58 FR 13230–13234). In that rulemaking action, EPA described its interpretations of Title 1 and its rationale for proposing to approve the Grants Pass PM_{10} SIP taking into consideration the specific factual issues presented.

Those states containing initial moderate PM_{10} nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM_{10} nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993, which become effective without

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM_{10} nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–13544).

II. Response To Comments

EPA received no comments on its March 10, 1993, (58 FR 13230–13234) **Federal Register** proposal to approve the Grants Pass moderate nonattainment area PM_{10} SIP as a revision to the State of Oregon Air Quality Control Program, Volume 2, The Federal Clean Air Act State Implementation Plan (and other State Regulations).

III. This Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–13566). In this action, EPA is approving the plan submitted to EPA on November 21, 1990, as revised by addenda submitted on November 15, 1991 (examined together as a comprehensive submittal for the area). EPA has determined that the submittal meets all of the applicable requirements of the Act. Among other things, the Oregon Department of Environmental Quality has demonstrated the Grants Pass moderate PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994. Note that EPA's action includes approval of the contingency measures for the Grants Pass nonattainment area.

Subsequent to the public notice proposing approval of the Grants Pass PM_{10} SIP, EPA determined that the Oregon Revised Statute Chapter 468, as amended in 1991, failed to provide sufficient authority to ensure that the industrial source control measures contained in the Grants Pass PM_{10} SIP could be adequately enforced. Specifically, ORS 468.126(1) provided that penalties could not be assessed against a source for permit violations unless the state first provided notice of the violation to the source, and further, if within five days, the source came into compliance or provided an adequate schedule to come into compliance in the future, no penalties could be assessed.

EPA informed the Oregon Department of Environmental Quality that this provision was unacceptable to the extent it applied to permit limits which were relied on to attain, maintain or demonstrate attainment with a NAAQS.

On September 3, 1993, the Governor of Oregon signed into law new legislation correcting this deficiency. The new law provides that the five-day advance notice provision required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from Federal approval or delegation. See Oregon Senate Bill 86, 1993 Session, § 3 (1993) to be codified at ORS 468.126(2)(e). Because the notice provision bars civil penalties from being imposed for certain permit violations, application of ORS 468.126(1) fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval. See section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the notice requirement would disqualify this PM_{10} program from Federal approval. Thus, the state has acknowledged that, pursuant to ORS 468.126(2)(e), the notice provision in ORS 468.126(1) will not apply to violations of SIP requirements contained in permits, including permits containing industrial source control requirements, relied upon to attain, maintain or demonstrate attainment with a NAAQS.

IV. Administrative Review

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)) (See 42 U.S.C. 7607 (b)(2))

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.SE.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: November 11, 1993.

Gerald A. Emison,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(99) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(99) On November 21, 1990, the Director of the Department of Environmental Quality (ODEQ) submitted a State Implementation Plan for Particulate Matter, Grants Pass, Oregon, Moderate Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10}. On November 15, 1991, the Director of ODEQ submitted an Addendum to the November 21, 1990 submittal.

(i) Incorporation by reference.

(A) November 21, 1990 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting revisions to the Oregon state implementation plan.

(B) November 15, 1991 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting revisions to the Oregon state implementation plan.

(C) State Implementation Plan for Particulate Matter, Grants Pass, Oregon Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10} dated November 1990, adopted by the Environmental Quality Commission on November 2, 1990 and effective on November 2, 1990.

(D) PM_{10} Control Strategy for Particulate Matter (Addendum) Grants Pass, Oregon Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10} dated October 1991, adopted by the Environmental Quality Commission on November 8, 1991 and effective on November 13, 1991.

[FR Doc. 93–30774 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–930–4210–06; AZA–13010]

43 CFR Public Land Order 7022

Revocation of Secretarial Order Dated June 30, 1908; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Secretarial Order dated June 30, 1908, insofar as it affects the remaining 41.69 acres of National Forest System land withdrawn for use as the Payson Administrative Site. The land is no longer needed for this purpose, and the revocation is needed to accommodate a proposed land exchange under the General Exchange Act of 1922. The original withdrawal, containing 125.50 acres, has been reduced in size over the years to accommodate other uses and needs. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land is located within the town limits of Payson, and therefore, is not subject to mineral leasing.

EFFECTIVE DATE: January 18, 1994.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–650–0509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Order dated June 30, 1908, which withdrew National Forest System land for use as the Payson Administrative Site, is hereby revoked insofar as it affects the remaining 41.69 acres described below:

Gila and Salt River Meridian

Tonto National Forest

T. 10 N., R. 10 E.,
Sec. 5, lot 6, N½NE¼SE¼SE¼,
SW¼NE¼SE¼SE¼,
N½SE¼NE¼SE¼SE¼,
SW¼SE¼NE¼SE¼SE¼,
W½SE¼SE¼SE¼, and
W½E½SE¼SE¼SE¼;
Sec. 8, lot 1, and NE¼NE¼NE¼;
Sec. 9, lot 2.

The area described contains 41.69 acres in Gila County.

2. At 10 a.m. on January 18, 1994, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: December 6, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93–30733 Filed 12–16–93; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930932–3314; I.D. 081693C]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the conservation and management measures contained in Amendment 5 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule allows two or more states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS (Regional Director), to transfer or combine their summer flounder commercial quota. The intent of Amendment 5 is to provide a mechanism within the overall coastwide quota to give the states flexibility in quota management in order to respond to changes in landing patterns or emergency situations.

EFFECTIVE DATE: January 18, 1994.

ADDRESSES: Copies of Amendment 5, the environmental assessment (EA), and the regulatory impact review (RIR) are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 S. New Street, Dover, DE.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Fishery Policy Analyst, 508–281–9101.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed under the FMP, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations for the fishery are found at 50 CFR part 625.

Amendment 5 was prepared by the Council in consultation with the ASMFC and the New England and South Atlantic Fishery Management Councils. A notice of availability for

Amendment 5 was published in the Federal Register on August 20, 1993 (58 FR 44318). A proposed rule to implement Amendment 5 was published on September 8, 1993 (58 FR 47245).

Under Amendment 5, quota transfers or combinations are subject to approval by the Regional Director. The final rule clarifies the manner in which participating states must request approval by the Regional Director of a quota transfer or combination. This clarification is outlined in the section below, which specifies changes from the proposed rule. The criteria that the Regional Director must use to evaluate each request are unchanged from the proposed rule.

Upon approval by the Regional Director of a request for quota transfer or combination, NMFS will publish a notification to that effect in the Federal Register. NMFS law enforcement agents will also be notified of quota transfers or combinations before landings can be made under the adjusted quota. For these reasons, only one request from a state for a quota transfer or combination can be in process at any given time.

All landings made in a state during the calendar year will be counted against that state's commercial quota, regardless of whether that state has received additional quota as a result of a quota transfer or combination.

In the case of quota transfer, the recipient state is responsible for a quota overage. If it occurs, the overage will be deducted from the following year's quota for that state. In the case of a quota combination, if an overage occurs it will be deducted in the following year from the quotas of all participant states, with the deduction made in the same proportion as their contribution to the combined quota.

Technical Changes

The final rule also includes two technical changes to the existing implementing regulations. The first, which was requested by NMFS law enforcement agents, defines "land" in the summer flounder regulations in the same way that it is defined in the FMP for Atlantic Sea Scallops: "Land means to begin offloading fish, to offload fish, or to enter port with fish." This change is implemented to enhance enforcement of landings prohibitions and restrictions.

The second technical change modifies the size of the container required in § 625.25, to make it consistent with the size proposed by the New England Fishery Management Council as part of Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery. Because many vessels participate in both fisheries, this change is being made to improve enforcement efforts and prevent confusion among vessel operators. Both of these technical changes were contained in the proposed rule.

Changes From the Proposed Rule

Section 625.20(f) has been revised to clarify that states must request approval of a quota transfer or combination by individual or joint letter(s) to the Regional Director. The letter(s) must specify the participating states and the amount of quota involved. A responsible official from each participating state must sign the joint letter or his/her own letter.

The language in § 625.25, which provides the specifications for the box in which summer flounder is to be stored, has been revised to make it consistent with similar proposed implementing regulatory language in Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery.

Comments and Responses

One comment was received from an individual concerning the proposed amendment.

Comment: The commenter indicated that quota transfers should be allowed; however, in order to give advance notice to the industry and fisheries enforcement agencies, they should be made prior to the start of the quarter in which they are to take effect.

Response: Amendment 5 is intended to provide the states with flexibility in quota management. NMFS sees no reason to limit this flexibility by specifying the timing of quota transfers or combinations. The existing regulation allows a state to make transfers on a quarterly basis if it chooses.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that Amendment 5 is necessary for the conservation and management of the summer flounder fishery.

When this rule was proposed, the General Counsel of the Department of Commerce certified to the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities for the reasons set forth in the RIR prepared by the Council. A copy of the RIR may be obtained from the Council (see **ADDRESSES**). As a result, a regulatory flexibility analysis was not prepared.

The final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The requirement for states to request quota transfers and combinations has been approved by the Office of Management and Budget under control number 0648–0202. The reporting burden for a state to make a request, including the time necessary for reviewing instructions, gathering the data needed, and completing and reviewing the request, is estimated at 15 minutes. Send comments regarding this burden hour estimate, including suggestions for reducing the burden, to Richard B. Roe, Director, Northeast Region, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298, and to the Office of Management and Budget, Paperwork Reduction Project (0648–02020, Washington, DC 20503.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: December 10, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. A definition of *land* is added to § 625.2 to read as follows:

§ 625.2 Definitions.

* * * * *

Land means to begin offloading fish, to offload fish, or to enter port with fish.

* * * * *

3. Section 625.20 is amended by adding a new paragraph (f) to read as follows:

§ 625.20 Catch quotes and other restrictions.

* * * * *

(f) *Quota transfers and combinations.* Any state implementing a state commercial quota for summer flounder may request approval from the Regional Director to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for summer flounder may request approval from the Regional Director to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for

summer flounder must be made *by individual or joint letter(s)* signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(1) Within 10 working days following the receipt of *the letter(s)* from the states involved, the Regional Director shall notify the appropriate state officials of the disposition of the request. The Regional Director shall consider the following criteria in the evaluation of requests to transfer or combine quota.

(i) The transfer or combination will not preclude the overall annual quota from being fully harvested;

(ii) The transfer addresses an unforeseen variation or contingency in the fishery; and

(iii) The transfer is consistent with the objectives of the FMP and Magnuson Act.

(2) The transfer or combination of quota shall be valid only for the calendar year for which the request was made and will be effective upon the filing by NMFS of a notification of the approval of the transfer or combination with the Office of the Federal Register.

(3) A state may not submit a request to transfer or combine quota if a request to which it is party is pending before the Regional Director. A state may submit a new request when it receives notice that the Regional Director has disapproved the previous request or when notification of the transfer or combination of quota has been filed at the **Federal Register**.

(4) If there is a quota overage among states involved in the combination of quota at the end of the fishing year, the overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional based on each state's relative share of the combined quota for the previous year. A transfer or combination of quota does not alter any state's percentage share of the overall quota specified in paragraph (d) of this section.

* * * * *

4. Section 625.25, paragraph (d) is revised to read as follows:

§ 625.25 Possession limit.

* * * * *

(d) Neither owners nor operators of otter trawlers issued a permit under § 625.4 and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh-size requirements (except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies) may possess 100 pounds (45.4 kg) or more of summer flounder May 1 through October 31 or 200 pounds (90.8 kg) or more of summer flounder November 1 through April 30. Summer flounder on board these vessels shall be stored separately in the appropriate number of standard 100-pound (45.4 kg) totes, and shall be readily available for inspection. The standard 100-pound (45.4 kg) tote has a liquid capacity of 18.2 gallons (70 liters), or a volume of not more than 4,320 cubic inches (70,792 cubic cm).

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